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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/601,288 | 06/20/2003 | Alan K. Schaer | 09610.1271 | 1511 |

7590 03/11/2009
EDWARD J. LYNCH
Patent Attorney
One Embarcadero Center, Suite 562
San Francisco, CA 94111

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| EXAMINER |
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COHEN, LEE S

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| ART UNIT | PAPER NUMBER |
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3739

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| MAIL DATE | DELIVERY MODE |
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03/11/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/601,288 | Applicant(s) SCHAER, ALAN K. | |
| | Examiner Lee S. Cohen | Art Unit 3739 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-52 and 54-77 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-52, 54-60 and 64-67 is/are allowed.
- 6) ☒ Claim(s) 61-63 and 68-77 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 61 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In (d), “a plurality of electrical conductor” and in (e), “is configured to tissue facilitate” are vague.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 68, 69, 71, 72, and 77 are rejected under 35 U.S.C. 103(a) as being unpatentable over Panescu et al (5,769,847) in view of Nashef et al (5,682,899). Applicant's attention is directed to columns 5-8 in Panescu et al and, in particular, the figure 9 embodiment. Panescu et al also disclose at column 6, lines 28-32, that the electrodes can be as small as 4 French (1.35 mm) in diameter and have lengths varying from about 2 mm to about 10 mm. Adjacent electrodes are spaced no farther apart than about 2.5 times an electrode diameter. Accordingly, the electrode spacing can be within the claimed range. The reference further discloses a core member 28 that extends into a jacket (see Figure 8).

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Nashef et al disclose the use of a metal band about a temperature sensor to improve its performance. Applicant's attention is directed to Figure 1, elements 19 and 20. Given this teaching, it would have been obvious to the skilled artisan to incorporate a metal band in Panescu et al to effect superior temperature sensing. Further, the process by which the band is attached to the temperature sensor is within the level of skill for the artisan to select to optimize performance.

With respect to claims 68 and 69, the recited methods are deemed to be obvious over the Panescu et al reference. Detecting electrical activity with the electrodes after delivering ablation energy is conventional in the art and would have been an obvious step. Further, the Panescu et al method encompasses delivering of energy to the electrodes in various patterns (i.e., sequential) to achieve optimum lesion formation.

Claims 61-63, 70, and 73-76 are rejected under 35 U.S.C. 103(a) as being unpatentable over Panescu et al (5,769,847) in view of Nashef et al (5,682,899) as detailed supra, and further in view of Littman et al (5,509,411). Littman et al disclose the use of braided helical conductors in a shaft that partially covers the electrodes as well as the particular core structure to have been well known in the art. The reference also discloses the use of a distal tip coil member. Given these teachings, it would have been obvious to the skilled artisan to incorporate these features in the Panescu et al device to render it more flexible and maneuverable.

Response to Arguments

Applicant's arguments filed have been fully considered but they are not persuasive. Nashef et al clearly teaches the metal band feature of the temperature sensor. The fact that it dissipates heat generated by the sensor does not detract from the fact that it would inherently

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facilitate detecting the temperature adjacent the band which the temperature sensor is designed to detect. The temperature of the adjacent electrode is effectively the temperature of the adjacent tissue which is being ablated by the electrode and detected by the temperature sensor.

Allowable Subject Matter

Claims 1-52, 54-60, and 64-67 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lee S. Cohen whose telephone number is 571-272-4763. The examiner can normally be reached on Monday-Friday, 7:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on 571-272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Lee S. Cohen
Primary Examiner
Art Unit 3739

/Lee S. Cohen/
Primary Examiner, Art Unit 3739
March 9, 2009